DOCUMENT RESUME

ED 112 292 CG 010 065

AUTHOR Weinrach, Stephen G.
TITLE Even Clients Have Rights. Privilege, Privacy and Protection.
PUB DATE Mar 75
NOTE 12p.; Paper presented at the Annual Convention of the American Personnel and Guidance Association (31st, New York, New York, March 23-26, 1975)

EDRS PRICE MF-$0.76 HC-$1.58 Plus Postage
DESCRIPTORS *Civil Liberties; Confidentiality; *Counseling; Counselor Evaluation; Counselor Functions; Educational Responsibility; *Interpersonal Relationship; *Responsibility; Speeches; *Student Rights

ABSTRACT

Prefaced with citations of the enactment of student rights, this paper outlines the results of a questionnaire dealing with client rights and responsibilities. The right mentioned by the majority of respondents is confidentiality. A Bill of Client Rights and Responsibilities is derived from the survey and presented in three categories: (1) determining if, with whom, and for how long the relationship is to exist; (2) creating a de-mystified and mutual relationship; and (3) developing quality-control measures, involving client evaluation of counseling outcomes. The author suggests that, as counselors and clients establish the rights within the relationship, they naturally become more responsible to each other, and this responsibility carries over into other relationships. (Author/JS)

****
* Documents acquired by ERIC include many informal unpublished *
* materials not available from other sources. ERIC makes every effort *
* to obtain the best copy available. Nevertheless, items of marginal *
* reproducibility are often encountered and this affects the quality *
* of the microfiche and hardcopy reproductions ERIC makes available *
* via the ERIC Document Reproduction Service (EDRS). EDRS is not *
* responsible for the quality of the original document. Reproductions *
* supplied by EDRS are the best that can be made from the original. *
****

ED112292

Privilege, Privacy and Protection

APGA 1975 Convention Session #133.1

March 1975

Even Clients Have Rights

Stephen G. Weinrach, Ph.D.

Villanova University

CG 010 065

Even Clients Have Rights

The decade of the sixties saw the birth of the student dissent movement in this country. The phrase "students rights" became the hue and cry of a movement toward increased human rights for those in school settings. "Clients rights" is a newer and even more nebulous concept which is only now, in 1975, beginning to be heard. Unfortunately, the professional literature reveals hardly any reference to the rights of clients in a counseling relationship, whether the setting is a school, child guidance clinic, mental health agency, state employment bureau, or prison. Yet just as surely as college and secondary school students in the recent past have clamored for and are gradually being granted rights, which were long overdue, so too are clients in a counseling relationship slowly being recognized as a group which has NOT had its rights acknowledged.

Interestingly, most of the progress in the area of client rights has been limited to patients in a hospital or institutional setting. In the case of Wyatt vs. Stickney, the court ruled that the humane treatment of mental patients is required by the U.S. Constitution. Such treatment includes the right to privacy, individualized treatment, freedom from unnecessary medication and experimental or hazardous therapies without the patient's permission. The courts have been called upon, by the Michigan Association for Emotionally Disturbed Children, to cease their stigmatizing and sometimes traumatizing labeling of children by the use of terms like "developmental disability" and "behavior disorder." At least one client group is also fighting for its own rights. Former mental patients drafted a "Mental Patients" Bill of Rights," which called

for--among other things--the right to be treated with decency and respect, and the right to the integrity of one's own body.

In its "Guidelines for the Collection, Maintenance, and Dissemination of Pupil Records," the Pennsylvania Department of Education recommends that counselors "stress the voluntary character of the (client's) participation." It further recognizes the "element of duress" often felt by the client in being coerced into a counseling relationship. The Guidelines recommend that those clients who are minors should not be counseled without their parents' prior consent.

Thus it would appear that individuals and groups from a rather limited range of counseling settings--largely hospital-related in nature--are, to some degree at least, finally being accorded human rights. There would still seem to be a dire need to expand the range of settings where clients are granted their rights to include such places as schools, out-patient clinics, employment bureaus, nursing homes, and parole offices. And any movement toward elaborating the rights of clients in a counseling relationship will also help counselors in evaluating and clarifying their own positions within the relationship.

Most counselors will feel a sense of relief if their clients seek a greater degree of participation in the counseling process. After all, counseling is--or should be--an interaction between two people who are deeply involved in working through the difficulties which at least one of them faces. Counselors who are genuinely interested in fostering greater self-responsibility and self-decisiveness on the part of their clients will welcome the client rights movement as a giant step forward in the delivery of counseling services.

Unfortunately, there will be those counselors who feel more threatened than relieved by the client's right to have a greater involvement in the

counseling process, since clients will then truly become co-participants and equal partners in the counseling enterprise. Those counselors who are accustomed to playing an authoritarian and/or paternalistic role with their clients might very well be reluctant to relinquish those facets of themselves in their dealings with their clientele.

Just as client rights call upon clients to become more responsible within the counseling relationship, so do they require a "letting go" on the counselor's part so that clients can make the choices necessary for the enhancement of their own lives. In short, counselors can help their clients move toward greater responsibility and autonomy by creating a counseling climate wherein clients function in a more responsible and autonomous manner. Effective counselors have been doing this all along; less effective counselors will probably need a push from a civil court case before they take client rights seriously.

Now that client rights have been referred to, just precisely what are they? In an effort to generate a list of client rights and responsibilities, clients as well as potential clients in secondary schools, an out-patient drug unit, a probation office, employment bureaus, a reformatory, and a women's college were asked the following questions:

1. What rights do you think you should have when you see a counselor?
2. What responsibilities go along with these rights?

Over 300 individuals, ranging in age from 9 to 41, responded to the questionnaire. About 60% of the respondents were able to name at least one right, and the right mentioned most often (80% of the time) was that of "confidentiality." The next most frequently mentioned response was "mutuality," i.e., the expectation that a counselor would deal in good faith, follow through on a promise, be truthful, open, friendly, and patient. Some of the respondents' commentaries follow:

A 15-year old girl in a reformatory who had seen her counselor several hundred times within the past two years felt that it was her right "to be me at all times." A junior high school boy expected "to be listened to seriously." A 17-year old male wanted to be able to "talk to them as if they were a friend."

About 20% of the responses dealt with the prerogatives of the client. An 11-year old girl stated, "It's your problem. Why should the counselor make up your mind for you?" A 40-year old female who was seeing an employment counselor wanted the right to "fill out my own application and put down the true facts." A 22-year old male seeing a state employment counselor felt that he had the right "to say 'no'." And another male in the same setting wanted to "be exposed to all job potentials because in the final run, only the client knows if he/she is suited to the job." All of the above responses reflect a real concern on the part of clients for assuming more responsibility within the relationship.

It is insufficient merely to state the rights of individuals. Assuming that driving a car is a right, individuals so doing also have the responsibility to exercise this right under certain prescribed guidelines. Similarly, clients have both rights and responsibilities as they relate to the counseling process.

Having a greater piece of the action in counseling means that the client assumes a greater responsibility for what transpires. As necessary as it is to explicitly enumerate the client's rights, so too it is essential to clearly state the corresponding responsibilities.

Counseling seems to be most effective when clients take an active role and assume responsibility for themselves. But we cannot assume that clients are always aware of the active role which they can play in the

counseling process. Therefore, counselors need to take the initiative in assisting clients to identify and demand their rights within the counseling relationship. It would appear that the ground rules do vary from setting to setting. Clients who pay are able to determine when, with whom and under what circumstances they will receive counseling. Those who don't pay are often not in the same position to make their wishes known. The poor and the aged are seen as not knowing any better; the young are viewed as having had insufficient experience and the incarcerated are perceived as being too devious to tell the truth. In certain agency settings, clients who are potential recipients of benefits in terms of job leads, parole or financial assistance must submit to counseling whether they like it or not. In essence, the system does not favor those who do not directly contract or pay for counseling services.

A Bill of Client Rights and Responsibilities

What follows is a partial list of rights and responsibilities, most of which were obtained from the above-mentioned survey. The list, which should not be considered all-inclusive, has been divided into three groups, each dealing with a separate aspect of the counseling relationship.

Group I. Determining if, with whom, and for how long a relationship is to exist:

Group I rights are concerned with the intial contact or lack thereof. It is not uncommon for counselors to support the position that clients have a right to receive counseling, a position which would perpetuate the institution's need for more counselors. A less popular position is that clients also have the right to refuse to be counseled. Currently, the right to refuse to be counseled is often withheld from those on probation

or parole as well as those in state employment bureaus, Veterans Hospitals, and other public institutions and agencies. In order to receive the "carrot at the end of the stick" (a job, continued probation, veterans' benefits) clients are forced into a counseling relationship. Although clients in school settings are frequently given the option, they too are often simultaneously being subtly manipulated into the relationship ("it is better to spend a half-hour with a counselor than five minutes on the office bench"). In almost all cases, except where a client contracts for private counseling services, it is a case of paternalism, "father knows what's best for you."

Just as potential clients should be provided with the right to refuse counseling, they should also be permitted to terminate a relationship on their own terms. This is a hard pill to swallow for many professionals who may be convinced that were the client to continue, the client's situation might be resolved. Sometimes it is difficult to let go and permit the client to be responsible or irresponsible, as the client so chooses. In V.A., state employment, rehabilitation settings, it is virtually impossible to let go.

EXAMPLES

If clients exercise their right to:	They then have the responsibility to:
Refuse counseling without a hassle,	Inform the counselor of their decision.
Receive counseling promptly upon request,	Cooperate and participate in the process.
Terminate counseling,	Inform the counselor of their decision and their reasons for terminating.
Select a particular counselor,	Indicate the reasons for their preference.

Group II. Creating a demystified and mutual relationship

One step in overcoming institutional oppression is for consumers to assist clients in understanding how the process works. Counseling need not be one of the "black arts." For a long time counselors have tended to view their services as a combination of an undefined art and a mystical process. Fortunately, we now possess the knowledge to demystify the process; we can describe how change occurs, how goals and the limits or parameters of the counseling relationship are set. Because counselors are not able to be more explicit, the potential consumer can be better informed and, thus, entertain more realistic expectations. This takes a great burden for the perpetuation of the relationship away from the helper and places it squarely on the client, where it should have been from the outset.

The decision as to whether a client should receive individual or group counseling need not be the counselor's. The choice should not be arbitrary or taken for granted. Just because a client comes to a counselor for help does not automatically mean that group counseling is ruled out. The choice should be proffered the client after the implications of the decision are fully explained. The use of psychometric instruments should follow a similar format. Clients, after receiving an explanation of the various instruments, are quite capable of deciding whether or not they wish to submit to testing and if so, which instruments might be appropriate and who will have access to the results.

Counselors who are committed to demystifying the relationship make their counseling records freely available to the client, including test results and related correspondence. The data are used constructively in an attempt to place greater responsibility upon the client. Where

privileged communication is involved, the counselor makes sure that the client is fully aware of the limits to that privilege and that only the courts can provide a counselor with absolute privilege.

There is little, if any, doubt that many counseling sessions are uneconomical, and sometimes wasteful, insofar as the wise use of counseling time is concerned. Far too often, the counseling hour is spent on chit-chat, banalities, and superficial "problems." It is up to the counselor and client, at or near the outset of the counseling relationship, to delve into the structure of the relationship and to set realistic and attainable goals:

EXAMPLES

If clients exercise their right to:	They then have the responsibility to:
Have a private uninterrupted conference with a counselor who is prompt, attentive and willing to listen,	Arrive promptly and actively participate.
Know how the counseling process works,	Provide the counselor with feedback about the efficacy of various techniques.
Set goals for themselves within the counseling framework,	Work actively toward these goals.
Choose between individual and group counseling,	Make the decision on the basis of sufficient information and, once the choice is made, remain in that mode for a reasonable and previously agreed-upon amount of time.
Read their counseling records,	Try to comprehend their meaning.
See their test results,	Try to comprehend the implications of these results.

Participate in the selection of any psychometric instruments,	Be aware of the factors involved in making an informed decision.
Agree to divulge privileged communication,	Understand the limits to privileged communication.
Refuse to accept the counselor's professional recommendation,	Accept responsibility for making that decision.

Group III. Quality-control measures.

As the "consumers" of the service which we call "counseling," clients would seem to be the most logical group to ask to evaluate counseling outcomes. Strangely enough, a review of the literature reveals that research involving teachers, parents, supervisors and administrators as the counseling-evaluator group is more substantial than research studies involving the clients as evaluators. While the former undoubtedly has something valuable to say, client-consumers have the most to say--yet they are rarely asked for their opinion. Their opinion should be solicited and listened to, so that the counselor can learn what worked and what didn't. This kind of data is bound to be a spur toward improvement on the part of the counselor, to any counselor who is a dedicated professional.

At times, a client may seek a "second opinion" from another counselor, psychologist, or social worker, just as a patient sometimes visits more than one physician for a prognosis. Counselors must accept this as a fact of professional life and should not become paranoid about it. As a matter of fact, the counselor who has any doubts or reservations whatever in dealing with a client should encourage the client to consult with another professional "helper." In any case, the client should feel free to do so without fear of penalty and after so doing should assume the final responsibility for making whatever decisions are necessary.

EXAMPLES

If clients exercise their right to:	They then have the responsibility to:
Evaluate the results of counseling,	Inform the counselor of their criteria and of the results of their evaluation.
Seek consultation with another counselor or helping professional,	Inform the counselor of their decision and the reasons for it.

Summary

That students have rights is a virtually indisputable fact of life. It is also incumbent upon the counseling profession to assist clients in all kinds of settings to translate their needs and prerogatives into constructive counseling-related behaviors. Rights and responsibilities go hand in hand. Clients who assume responsibility for themselves in counseling are displaying autonomous behavior--which itself is a commendable counseling goal. But it goes beyond this. As counselors and clients establish the rights within the relationship, they naturally become more responsible to each other, and rarely does this responsibility remain solely within the relationship--it carries over to other relationships as well. Responsible clients become aware of their own potential or power and begin to assume responsibility in other areas of their lives.

To deny clients their rights is to also deny them their responsibilities, and if clients cannot learn to be responsible, they will be doomed to irresponsibility. Good counselors foster responsibility in their clients, and that's as it should be.